

2005 DRAFTING REQUEST

Bill

Received: **09/27/2004**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 266-8593**

By/Representing: **Milioto**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters: **dkennedy**

Subject: **Health - long-term care**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Milioto, BB0020 -

Topic:

Caregiver Investigations and Caregiver Background Check Fees

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	rryan 10/05/2004	wjackson 10/26/2004	rschluet 10/27/2004	_____	lnorthro 10/27/2004		State
/2	rryan 10/27/2004	wjackson 10/27/2004	rschluet 10/28/2004	_____	lemery 10/28/2004		State
/3	dkennedy 12/01/2004 rryan 01/25/2005	wjackson 12/01/2004 lkunkel 01/25/2005	pgreensl 12/02/2004	_____ _____ _____	mbarman 12/02/2004		State
/4			jfrantze	_____	lnorthro		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

01/25/2005 _____

01/25/2005

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/3	dkennedy 12/01/2004	wjackson 12/01/2004	pgreensl 12/02/2004		mbarman 12/02/2004		

1/4 mk 1/25 Jil Self

LRB-0309

12/02/2004 11:59:24 AM

Page 2

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



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		13 wj 12/1	 P8				

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1?	rryan	1 wly 10/26					

FE Sent For:


<END>

RUR BB000

2003-05 Budget Bill Statutory Language Drafting Request

- Topic: Caregiver Investigations and Caregiver Background Check Fees
- Tracking Code:
- SBO team: Health and Insurance
- SBO analyst: Steve Milioto
 - Phone: 266-8593
 - Email: steve.milioto@doa.state.wi.us
- Agency acronym: DHFS
- Agency number: 435

DHFS

Department of Health and Family Services
2005-2007 Biennial Budget Statutory Language Request
September 21, 2004

Caregiver Investigations and Caregiver Background Check Fees

Current Language

Current statutory language in s. 50.065(8) allows the Department to assess a fee for conducting caregiver background checks of long term care and health care providers. Chapter 50.065 of the statutes gives the Department responsibility for completing caregiver background checks on all Department regulated entity owners (over 5,000 entities), some principal officers, corporation or board members and non-client residents at the time of licensing or residency and at least every four years thereafter. Providers must also submit requests for background checks for their staff.

Proposed Change

Modify s. 50.065(8) to allow caregiver fee revenues to fund investigations by DHFS under s. 146.40(4r).

Effect of the Change

The change would allow investigations of complaints of caregiver misconduct to be funded in part with revenue from fees paid by providers who request caregiver background checks of their staff.

Rationale for the Change

Changing the language to allow caregiver background fees to cover costs associated with caregiver investigations would align the funding source with the activity performed. Using the revenue received from caregiver background checks to fund caregiver investigations is an appropriate use of the revenue.

Desired Effective Date: Upon passage
Agency: DHFS
Agency Contact: Mark Resheske
Phone: 267-0356

Ryan, Robin

From: Milioto, Steve
Sent: Tuesday, October 05, 2004 8:40 AM
To: Ryan, Robin
Cc: Resheske, Mark
Subject: FW: FW: Caregiver Investigations and background check fees

Hi Robin --

See Mark's response below. I would prefer not creating a new appropriation if we don't have to. Best, Steve

-----Original Message-----

From: Resheske, Mark
Sent: Monday, October 04, 2004 3:00 PM
To: Milioto, Steve
Subject: Re: FW: Caregiver Investigations and background check fees

Steve,

I would advise to modify s. 50.065(8) to allow caregiver fee revenues to fund investigations by DHFS under s. 146.40(4r), as the paper states. Or in short allow money in that appropriation, (6jm), to be spent on caregiver investigations. I don't see a need for a new appropriation. Thanks,

Mark

>>> Milioto, Steve 10/04/04 02:48PM >>>
Please advise. Best, Steve

-----Original Message-----

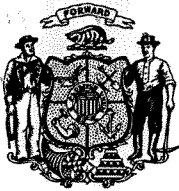
From: Ryan, Robin [mailto:Robin.Ryan@legis.state.wi.us]
Sent: Monday, October 04, 2004 1:28 PM
To: Milioto, Steve
Subject: Caregiver Investigations and background check fees

Steve,

This question is on BB0020.

Fees received under s. 50.065 (8) for background checks go into the appropriation account under s. 20.435 (6) (jm). Does DHFS want to expand the purpose of 20.435 (6) (jm) to allow money in that appropriation to be spent on caregiver investigations, or should I create a new PR appropriation for the background check fees and direct that the fee revenue be spent on caregiver investigations? Currently at least some of the revenue collected from the fee is presumably used to complete the background check, so if DHFS wants a separate appropriation for the fee revenue, should the purpose for which the fee revenue may be spent also include conducting the background check?

Thanks,
Robin



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-03092

RLR:.....

WJ (RMR)

In 10/5/05

10/29

DOA:.....Milioto, BB0020 - Caregiver Investigations and Caregiver
Background Check Fees ✓

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION ✓

DO NOT GEN

- ① AN ACT ...; relating to: fees for caregiver background checks and investigations
2 of abuse, neglect, or misappropriation by caregivers.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

OTHER HEALTH AND HUMAN SERVICES ✓

Currently, DHFS and certain providers of direct care or treatment services must conduct background checks of caregivers. DHFS may charge a fee for conducting background checks and for providing information on caregivers to providers. The revenues from these fees along with revenues from other licensing and regulatory fees are appropriated for licensing and regulatory activities conducted by DHFS.

Also under current law, DHFS must investigate allegations of abuse, neglect, or misappropriation by a caregiver employed by certain providers of direct care or treatment services.

This bill authorizes DHFS to use revenues from background check, licensing, and regulatory fees to investigate abuse, neglect, or misappropriation by caregivers.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (6) (jm) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b) and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b) and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57 and 50.981, and 146.40 (4r), and subch. IV of ch. 50 and to conduct health facilities plan and rule development activities, for accrediting nursing homes, convalescent homes and homes for the aged, to conduct capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or certifying and approving facilities, issuing permits and providing technical assistance that are not specified under any other paragraph in this subsection. All moneys received under ss. 48.685 (8), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c) and 50.981, all moneys received from fees for the costs of inspecting, licensing or certifying and approving facilities, issuing permits and providing technical assistance that are not specified under any other paragraph in this subsection, and all moneys received under s. 50.135 (2), less the amounts credited to the appropriation account under sub. (4) (gm), shall be credited to this appropriation account.

NOTE: NOTE: Par. (jm) is amended eff. 7-1-05 by 2003 Wis. Act 33 to read: NOTE:

(jm) *Licensing and support services.* The amounts in the schedule for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b) and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b) and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57 and 50.981 and subch. IV of ch. 50 and to conduct health facilities plan and rule development activities, for accrediting nursing homes, convalescent homes and homes for the aged, to conduct capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or certifying and approving facilities, issuing permits and providing technical assistance that are not specified under any other paragraph in this subsection. All moneys received under ss. 48.685 (8), 49.45 (47)

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2 licensing or certifying and approving facilities, issuing permits and providing technical assistance that are not specified under any other paragraph in this subsection,
3 and all moneys received under s. 50.135 (2), less the amounts credited to the appropriation account under sub. (4) (gm), shall be credited to this appropriation account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

4

(END)

Ryan, Robin

From: Milioto, Steve
Sent: Wednesday, October 27, 2004 12:39 PM
To: Ryan, Robin
Cc: Johnston, James
Subject: RE: LRB-0309/1

I have no objections. Best, Steve

-----Original Message-----

From: Ryan, Robin [mailto:Robin.Ryan@legis.state.wi.us]
Sent: Wednesday, October 27, 2004 12:10 PM
To: Milioto, Steve
Subject: LRB-0309/1

Hi Steve,

Debora pointed out that the appropriation in LRB-0309/1 is broader than what DHFS requested (and what I describe in the analysis). LRB 0309/1 authorizes DHFS to use funds under s. 20.435 (6) (jm) for any purpose specified in s. 146.40 (4r), rather than just for caretaker investigations. Unless you or DHFS object, I will redraft the bill so that it refers only to the investigations, i.e. s. 146.40 (4r) (b) and (er).

Let me know.

Thanks



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0309/1

RLR:wlj:rs

In 10/27/04

RMR

DOA:.....Milioto, BB0020 - Caregiver Investigations and Caregiver
Background Check Fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D-Note

DO NOT GEN

- 1 AN ACT ...; relating to: fees for caregiver background checks and investigations
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STET

and making an appropriation

STET

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(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0309/2dn

RLR:.....

Wlj

This redraft narrows the purpose of the appropriation under s. 20.435 (6) (jm) to better comply with DHFS's request. DHFS requested that the department be permitted to use background check revenue to fund caretaker^{giver} investigations. LRB-0309/1 permits DHFS to use the revenue for any purpose^{giver} under s. 146.40 (4r), not just caretaker^{giver} investigations. This redraft limits the change in purpose of the appropriation to cover just caretaker^{giver} investigations under s. 146.40 (4r) (b) and (er).

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0309/2dn
RLR:wlj:rs

October 27, 2004

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Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

Kennedy, Debora

From: Milioto, Steve
Sent: Wednesday, December 01, 2004 8:14 AM
To: Kennedy, Debora
Subject: FW: FW: LRB Draft 05-0309/2 Caregiver Investigations and Caregiver Background Check Fees

Hi Debora --

Please see Mark's comments below. Best, Steve

-----Original Message-----

From: Resheske, Mark
Sent: Tuesday, November 30, 2004 2:46 PM
To: Milioto, Steve
Subject: Re: FW: LRB Draft 05-0309/2 Caregiver Investigations and Caregiver Background Check Fees

Hi Steve,

I don't see the need to create another appropriation because we have fee revenue in separate numerics at the Department level. I would go with option 2 and strike the fee-limiting language, as described in Debora's second paragraph. I think this would be best. Thanks,

Mark

>>> Milioto, Steve 11/30/04 08:19AM >>>

Hi Mark --

Sorry for the delay with this. Please see Debora's comments below, particularly the third paragraph. Let me know how you wish to proceed. Best, Steve

-----Original Message-----

From: Kennedy, Debora [mailto:Debora.Kennedy@legis.state.wi.us]
Sent: Monday, November 29, 2004 4:41 PM
To: Milioto, Steve
Subject: RE: LRB Draft 05-0309/2 Caregiver Investigations and Caregiver Background Check Fees

What DHFS appears to be proposing is to use caregiver background fees to partially fund investigations of complaints of caregiver misconduct. Currently, those fees are deposited into s. 20.435 (6) (jm), along with a lot of other fees, and are expended for licensing and other regulatory activities of DHFS. The way that Robin has drafted the bill (in LRB-0309/2) accomplishes generally what DHFS has proposed, unless what DHFS wants is the creation of a specific appropriation that receives just the caregiver background fees and expends that money just for the purposes set forth in s. 50.065 (8) and for partially funding investigations of complaints--if the latter is the case, then the bill needs to be redrafted to create that appropriation.

However, what Mark Resheske is bringing up is another matter. Section 50.065 (8) states that the caregiver background fees authorized under that subsection may not exceed the reasonable cost of the activities for which the fees are charged. If DHFS wants to increase the amount of the fees or if the amount now charged is bringing in more money than the costs of the activities for which the fees are charged, then the language that limits the amount of the fee should be stricken.

Could you please ask Mark if (1) DHFS wants an appropriation created, as I

have described in the first paragraph or (2) if DHFS wants the fee-limiting language stricken, as I have described in the second paragraph?

-----Original Message-----

From: Milioto, Steve
Sent: Monday, November 29, 2004 3:34 PM
To: Kennedy, Debora
Subject: FW: LRB Draft 05-0309/2 Caregiver Investigations and Caregiver Background Check Fees

FYI

-----Original Message-----

From: Milioto, Steve
Sent: Tuesday, November 09, 2004 8:34 AM
To: Kennedy, Deborah M. DOC
Subject: FW: LRB Draft 05-0309/2 Caregiver Investigations and Caregiver Background Check Fees

Hi Deborah --

In Robin's absence, are you handling draft 309? If so, the department would like to forward the question below to you. Could you let me know what you think? Best, Steve

-----Original Message-----

From: Resheske, Mark
Sent: Tuesday, November 09, 2004 7:16 AM
To: Milioto, Steve
Subject: LRB Draft 05-0309/2 Caregiver Investigations and Caregiver Background Check Fees

Steve,

could you ask the drafter whether s. 50.065(8) needs to be amended as well?
Thanks.

Mark



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0309/23

RLR:wlj:rs

DOA:.....Milioto, BB0020 - Caregiver Investigations and Caregiver
Background Check Fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

No ff

The fee may not exceed the reasonable costs
of conducting the background checks.

DO NOT GEN

- 1 AN ACT ...; relating to: fees for caregiver background checks, investigations of
2 abuse, neglect, or misappropriation by caregivers, and making an
3 appropriation.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Currently, DHFS and certain providers of direct care or treatment services must conduct background checks of caregivers. DHFS may charge a fee for conducting background checks and for providing information on caregivers to providers. The revenues from these fees along with revenues from other licensing and regulatory fees are appropriated for licensing and regulatory activities conducted by DHFS.

Also under current law, DHFS must investigate allegations of abuse, neglect, or misappropriation by a caregiver employed by certain providers of direct care or treatment services.

This bill authorizes DHFS to use revenues from background check, licensing, and regulatory fees to investigate abuse, neglect, or misappropriation by caregivers.

No ff

The bill eliminates restrictions on the amounts of
fees for conducting background checks and providing
information to caregivers.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.435 (6) (jm) of the statutes, as affected by 2003 Wisconsin Act
2 33, is amended to read:

3 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
4 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a),
5 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5), 50.13,
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7 (b) and (er), and subch. IV of ch. 50 and to conduct health facilities plan and rule
8 development activities, for accrediting nursing homes, convalescent homes, and
9 homes for the aged, to conduct capital construction and remodeling plan reviews
10 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or
11 certifying, and approving facilities, issuing permits, and providing technical
12 assistance, that are not specified under any other paragraph in this subsection. All
13 moneys received under ss. 48.685 (8), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8),
14 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981,
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16 approving facilities, issuing permits, and providing technical assistance, that are not
17 specified under any other paragraph in this subsection, and all moneys received
18 under s. 50.135 (2), less the amounts credited to the appropriation account under
19 sub. (4) (gm), shall be credited to this appropriation account.

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0309/3ins
RLR:wlj:rs

INSERT 2-19

SECTION 1. 50.065 (8) of the statutes is amended to read:

50.065 (8) The department may charge a fee for obtaining the information required under sub. (2) (am) or (3) (a) or for providing information to an entity to enable the entity to comply with sub. (2) (b) or (3) (b). ~~The fee may not exceed the reasonable cost of obtaining the information.~~ No fee may be charged to a nurse's assistant, as defined in s. 146.40 (1) (d), for obtaining or maintaining the information if to do so would be inconsistent with federal law.

History: 1997 a. 27, 105, 237; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

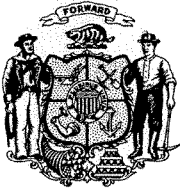
LRB-0309/4dn
RLR: *lk*

(date)

Steve Milioto and Sue Jablonsky,

This draft reconciles LRB-0309/3 and LRB-0316/2. Both LRB-0309 and LRB-0316 should continue to appear in the compiled bill. ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0309/3
RLR&DAK:wlj/pg

4

Keep

TODAY

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Background Check Fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

RMR

1-7/06

DO NOT GR

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(END)

dn

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0309/4ins
RLR:.....

1

Ins 2-19:

****NOTE: This is reconciled s. 20.435 (6) (jm). This SECTION has been affected by
drafts with the following LRB numbers: 0309/3 and 0316/2.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0309/4dn
RLR:lmk:jf

January 25, 2005

Steve Milioto January 25, 2005 and Sue Jablonsky,

This draft reconciles LRB-0309/3 and LRB-0316/2. Both LRB-0309 and LRB-0316 should continue to appear in the compiled bill.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0309/4
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